

**NEW HAVEN
DEPARTMENT OF POLICE SERVICE
GENERAL ORDERS**



GENERAL ORDER 6.01

EFFECTIVE DATE: February 15, 2018

USE OF FORCE

6.01.01 PURPOSE

The purpose of this General Order is to establish the guidelines and limitations concerning the appropriate and acceptable use of deadly and non-deadly force for sworn members of the New Haven Department of Police Service.

6.01.02 POLICY

It is the policy of the New Haven Department of Police Service (NHPD) to provide clear procedures to sworn officers regarding the use of force in the performance of their duties. The safety of innocent persons and officers is of paramount importance.

In compliance with applicable law, officers shall use only the amount of force necessary and reasonable to control a situation, effect an arrest, overcome resistance to arrest, or defend themselves or others from harm. When force is necessary, the degree of force employed should be in direct relationship to the amount of resistance exerted, or the immediate threat to the officers or others. There is a compelling public interest that officers authorized to exercise the use of force do so in an objectively reasonable manner and in a way that does not violate the civil rights guaranteed by our Constitution and applicable law. Officers who use excessive or unjustified force degrade the confidence of the community that they serve, undermine the legitimacy of a police officer's authority, and hinder the Department's ability to provide effective law enforcement services to the community.

Officers who use excessive or unauthorized force shall be subject to discipline, possible criminal prosecution, and/or civil liability. Use of force is only authorized when it is objectively reasonable and for a lawful purpose. Accordingly the Department will thoroughly review and/or investigate all uses of force by officers to assure compliance with all legal requirements and this policy.

6.01.03 DEFINITIONS

ACTIVELY RESISTING: When a subject makes physically evasive movements to interfere with an officer's attempt to control that subject; including bracing, tensing, pulling away, or pushing.

AUTHORIZED WEAPONS: Weapons that meet Department specifications and officers are permitted to carry; and for which officers successfully complete proficiency and safety training.

CONDUCTED ELECTRICAL WEAPON (CEW): An incapacitating, intermediate weapon used for subduing a person by administering an electric shock for the purpose of disrupting superficial muscle functions. This is an intermediate weapon and is classified as less than lethal.

CRITICAL FIREARM DISCHARGE: A discharge of a firearm by a NHPD Officer to the extent such discharges are authorized under this policy. Range and training discharges, and discharges at animals are not included under this section.

DEADLY FORCE: Any physical force which can be reasonably expected to cause death or serious physical injury.

DE-ESCALATION OF FORCE: A decrease in the severity of force used in an incident in direct response to a decrease in the level of resistance.

SOFT HAND CONTROL: The use of physical strength and skill in defensive tactics to control arrestees who are reluctant to be taken into custody and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance pressure points, takedowns, joint locks, and simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive physical resistance.

HARD HAND CONTROL: Impact oriented techniques that include knee strikes, elbow strikes, punches, and kicks. Control strikes are used to subdue a subject and include strikes to pressure points such as: the common peroneal (side of the leg), or radial nerve (top of the forearm).

- Defensive strikes are used by officers to protect themselves from attack and may include strikes to other areas of the body, including the abdomen or head. Techniques in this category include pressure point controls, stunning or striking

actions delivered to a subject's body with the hand, fist, forearm, legs, or feet. These techniques target the major muscle groups and are delivered to create muscle cramping, thereby inhibiting muscle action and allowing the officer to subdue the subject. In extreme cases of self-defense, the officer may need to strike more fragile areas of the body where the potential for injury is greater.

- Chokeholds are only justified as a use of deadly force.
 - A chokehold is defined as applying direct pressure to a person's trachea (windpipe) or airway (the front of the neck) with the intention of reducing the intake of air.
 - Holding and control techniques involving contact with the neck, but which are not intended to reduce the intake of air, are not defined as chokeholds.
 - Under no circumstances will a member use a chokehold, or any lesser contact with the neck area, to prevent the destruction of evidence by ingestion.

FORCE: Any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes the discharge of a firearm, pointing a firearm in the direction of a human being, use of chemical spray, chokeholds or hard hands, taking of a subject to the ground, dispatch of an animal or the deployment of a canine. The term does not include escorting or handcuffing a person with minimal or no resistance.

GREAT BODILY HARM/SERIOUS PHYSICAL INJURY: Serious bodily injury that creates a substantial risk of death, causes serious or permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

IMMINENT THREAT: An officer's reasonable perception of impending danger, death, or serious injury from any action or outcome that may occur during an encounter. A subject may pose an imminent or impending danger even if he or she is not pointing a weapon at the officer but has, for example, a weapon within reach, is running for cover carrying a weapon, or running to a place where the officer has reason to believe a weapon is available.

IMPACT WEAPONS: Department approved tools such as the Expandable Baton that provide a method for gaining control of a subject when lethal force is not justified, but when empty-hand control techniques are not sufficient to effect control.

NON-DEADLY/LESS LETHAL FORCE: Any force used by an officer that would not reasonably be expected to cause death. The Expandable Baton, OC Spray, Specialty Impact Munitions and Conducted Electrical Weapons are examples of less lethal weapons.

LEVEL OF CONTROL: The amount of force that an officer uses to gain control over a subject.

LEVEL OF RESISTANCE: The amount of force used by a subject to resist compliance with the lawful order or action of an officer.

NON-VERBAL AND VERBAL NON-COMPLIANCE: When a subject expresses his/her intentions not to comply with an officer's directive through verbal and non-verbal means.

OBJECTIVELY REASONABLE FORCE: The degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. (See, *Graham v. Connor*, 490 US 388 (1989)). In determining the appropriate level of force to be used, officers shall evaluate each situation in light of the unique facts and circumstances of each case. Those factors include, but are not limited to, the seriousness of the crime or suspected offense; the level of threat or resistance presented by the subject; the risk or apparent attempt by the subject to escape; and whether the subject is posing an imminent threat to officers or others.

OLEORESIN CAPSICUM (OC) SPRAY: An inflammatory agent that irritates the mucus membrane and eyes to cause tears and pain. It is an intermediate weapon that is classified as being non-deadly.

PASSIVE RESISTANCE: When a subject does not cooperate with an officer's commands, but does not take action to prevent being taken into custody. For example, a protestor who lies down in front of a doorway and must be carried away upon arrest.

VERBAL COMMANDS: The use of advice, persuasion, and/or warnings prior to resorting to actual physical force.

6.01.04 PROCEDURES

GENERAL

- Officers shall use advisements, warnings, and verbal persuasion, where feasible before resorting to force.
- Force shall be de-escalated immediately as resistance decreases.
- When feasible based on the circumstances, officers will use disengagements; area containment; surveillance; waiting for a subject to comply; summoning reinforcements; and/or calling in specialized units, in order to reduce the need for force and increase officer and civilian safety.
- Officers shall allow individuals time to submit to arrest before force is used whenever possible.

USE OF FORCE AUTHORIZATION AND LIMITATIONS

Officers of the Department are authorized to use only the amount of force necessary to accomplish lawful objectives. Force may be used:

- To effect an arrest or prevent the escape from custody of a person whom the officer reasonably believes has committed an offense.
- To defend the officer or others from the use, or imminent use, of physical force.
- To take persons into protective custody when authorized by law, such as persons who are a danger to themselves or others, persons incapacitated by alcohol, and/or runaway children (17 and under).
- To prevent someone from committing suicide or inflicting serious physical injury upon themselves.
- To assist a licensed physician or psychologist who has issued a written emergency certificate.
- To control a situation, and to overcome passive or active resistance to a lawful order.
- The authorized use of physical force ends when resistance ceases and/or the officer has accomplished the purpose necessitating the use of force. Justification for the use of force is based on the facts known or perceived by the officer at the time such force is used, including levels of resistance, suspect's behavioral cues, the number of officers and/or offenders present, and the availability of other options. Force shall never be used to subject a person to torture and/or other cruel or inhumane or degrading treatment or punishment.

VERBAL COMMANDS AND WARNINGS

Verbal commands are the most desirable method of dealing with an arrest situation. When tactically feasible, an officer will identify himself/herself as a police officer and issue verbal commands and warnings prior to the use of force. In an arrest situation, officers shall, when feasible, give the arrestee simple directions with which the arrestee is encouraged to comply. When feasible, an officer will allow the subject an opportunity to comply with the officer's verbal commands. A verbal warning is not required in circumstances where the officer has to make a split second decision, or if the officer reasonably believes that issuing the warning would place the safety of the officer or others in jeopardy.

USE OF DEADLY FORCE IN DEFENSE OF HUMAN LIFE

An officer is justified in using deadly physical force only when he or she reasonably believes such force is necessary to:

- Defend the officer, or a third person, from the imminent threat of death or serious bodily injury.
- Effect an arrest or prevent the escape from custody of a person the officer reasonably believes has committed, or has attempted to commit a felony involving the infliction or threatened infliction of serious physical injury; AND the

officer reasonably believes this person still poses a significant threat of death or serious physical injury to the officer or other persons. Where feasible, the officer should give warning of the intent to use deadly physical force.

- See, *Tennessee v. Garner*, 471 U.S. 1 (1985): The United States Supreme Court ruled that the use of deadly force to prevent the escape of a suspected felon violates the Fourth Amendment prohibition against unreasonable seizure if used against an apparently unarmed, non-violent suspect (the case involved a burglary suspect). The Supreme Court further stated that deadly force may be used against an offender who has attempted or committed an offense involving the infliction or threatened infliction of great bodily harm. Deadly force may not be used against an unarmed, non-violent, property crime offender. The United States Supreme Court decision went on to state that when an officer is justified in the use of deadly force he will, if feasible, first give a verbal warning. (Example: "Police Officer, Halt").

DEADLY FORCE RESTRICTIONS

Warning Shots Prohibited

- Officers are prohibited from discharging their firearms as a means of warning or frightening a person.

Shooting at or from Moving Vehicles

- Officers are prohibited from discharging their firearms at or from a moving vehicle, motorcycle, or bicycle (collectively, "moving vehicle") unless officers reasonably believe deadly force is necessary to defend the officer or a third person from the use, or imminent use, of deadly force. For purposes of this General Order, officers will not discharge their firearms at moving vehicles except under extreme circumstances. Such discharges will be rigorously scrutinized. Officers shall, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them. When confronted with an oncoming, moving vehicle, officers must attempt to move out of its path and should generally avoid placing themselves in situations where the use of deadly force is more likely.

Risk to Innocent Bystanders

- When officers are about to discharge their firearms they should be aware of their field of fire, including the backstop, so as to not unnecessarily create a substantial risk of harm to innocent persons. Officers are prohibited from discharging their firearms when, based on the totality of the circumstances, discharging a firearm would constitute a greater risk to innocent human life than the subject's actions. (*e.g. discharging a firearm into a crowd, or shooting into a building or through a wall, where the subject is not clearly identified and it is unknown if there are other occupants present.*)

Drawing and Pointing Weapons

- Officers are prohibited from drawing and pointing their firearms at or in the direction of a person absent an objectively reasonable determination that the situation may escalate to the point where deadly force would be authorized under this policy. When it is determined that the use of deadly force is not necessary, officers shall, as soon as practicable, secure or holster their firearms. It is the rule of this department that drawing a firearm and pointing it at a target is considered a use of force.

USE OF FIREARM TO DESTROY ANIMALS

- Officers may use deadly force against an animal that represents a threat or danger to public safety or officers' safety or where the animal is seriously injured after the officers have received authorization from the animal's owner (to the extent practicable) and the officer's supervisor.

USE OF NON-DEADLY FORCE

Officers shall only use weapons and control techniques that are issued and/or approved for use by the Department. The use of non-deadly force shall be limited to defensive and control purposes. Officers shall use only the reasonable amount of force necessary to overcome resistance or accomplish the police task. The use of non-deadly force shall conform to applicable Department Standards of Conduct, policies, procedures, and training. Officers shall not carry any less lethal weapons, or employ any non-deadly techniques, prior to successfully completing the relevant Department approved training for each weapon or technique.

Authorization to Use Non-deadly Force

Officers are authorized to use Department approved, non-deadly force techniques and authorized weapons to:

- Prevent the escape from custody, or to effect a lawful arrest, of a person whom the officer reasonably believes has committed an offense.
- Protect or defend the officer or others from what he/she reasonably believes to be active resistance while effecting or attempting to effect an arrest, or while preventing or attempting to prevent an escape.

Force Restrictions

The following tactics of force may be permitted in circumstances only when deadly force is authorized by this policy:

- Any strike with an impact weapon or object to a person's head or neck.

- In limited circumstances when a confrontation escalates suddenly, however, an officer may use any means or device at hand such as a flashlight, radio, and other issued equipment, to defend him/herself, defend themselves, another person, or to bring a situation under control when in light of the circumstances surrounding the officer, at the time, it was found reasonably necessary to do so as long as the level of defensive action is objectively reasonable given the existing circumstances.
- Force shall not be used against persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to the officer or another person or persons, or, as objectively reasonable, where physical removal of the subject is necessary to overcome passive resistance.

Expandable Baton

The Expandable Baton may be used only when an officer is confronted with passive resistance or greater. (Refer to General Order 7.08 for specifics regarding the authorized use of an Expandable Baton).

- The use of a baton or similar instrument to strike a blow to a subject's arms or legs will be considered use of non-deadly force. The use of any such items to intentionally strike a subject's head or neck is prohibited except where deadly force is authorized by this policy.

Oleoresin Capsicum (O.C. Spray)

Authorized O.C. spray is an alternative to physical control techniques and the use of other intermediate weapons. As with any other use of force, however, O.C. spray must not be used indiscriminately or without just cause. Officers must be able to articulate the reason(s) the subject was sprayed with O.C. spray.

- O.C. spray shall be utilized as issued and authorized to prevent injury to the subject(s), officers and others. (Refer to General Order 7.07 for specifics regarding the authorized use of an O.C. spray.)

Conducted Electrical Weapon

A Conducted Electric Weapon (CEW) (i.e., TASER®) is authorized for use when other less lethal options have been ineffective, or when it reasonably appears that such options will be ineffective in subduing the subject. Conducted Electrical Weapons shall only be used in a situation where the subject is actively resisting or attempting to avoid arrest by escape and additionally poses an imminent threat to the safety of him/herself, another person, or the officer. (Refer to General Order 7.06 for specifics regarding the authorized use of a CEW.)

TRAINING AND QUALIFICATIONS

- In addition to training required for firearms qualification (Refer to the General Order 7.01), sworn personnel shall receive Department authorized training designed to simulate actual situations and conditions and, as otherwise necessary, to enhance officers' discretion and judgment in using deadly and less lethal force in accordance with this policy.
- All sworn personnel shall, at least annually, receive in-service training in the Department's Use of Force Policy and related case law updates. All training, including remedial training, will be documented.
- Training and proficiency results for any authorized weapon will be documented in the training files. Officers must demonstrate proficiency with weapons in compliance with P.O.S.T. requirements.
- Officers who fail to qualify on their duty weapon will be scheduled for one retry opportunity to reach qualification score. Officers who fail to qualify on the scheduled retry will receive remedial firearms training and given another opportunity to reach qualification score, as mandated by P.O.S.T. Both the retry and remedial training will take place within one month of the initial firearms qualification attempt.
 - If, after this third attempt, an officer fails to achieve qualification score, the officer will be placed on firearms probation. During this firearms probation, the officer will be required to receive remedial firearms training with a firearms instructor and be given the opportunity to qualify on a weekly basis until either they qualify or their P.O.S.T. certification expires. Weekly qualifications will be scheduled by the firearms instructor and will only be rescheduled based on extenuating circumstances.
 - Officers who are placed on firearms probation for failing to qualify with their service weapon will be restricted to an "in-house assignment," with the exception of the firearms training and will only carry their service weapon during remedial training. Officers whose firearms probation stems from a failure to qualify with a department rifle will not be authorized to carry such weapon until they have qualified.
 - Officer(s) who fail to qualify after remedial training may be in danger of losing their State Officer Certification and may be subject to disciplinary action up to and including termination.

Medical Aid

Any time a person has visible injuries or complains of being injured as a result of force used against him/her by an officer, the officer must take appropriate actions to obtain medical care for the injured person. This includes requesting emergency medical services, and/or arranging for other transportation to a hospital or emergency medical facility.

Officers shall be trained in proper procedures for handling persons exposed to chemical sprays and the effects of other less-than-lethal force. If the person is offered and/or

refuses treatment, this refusal shall be recorded in the police report, along with all relevant information. In addition, the officer will also notify their Supervisor as soon as practical. If warranted, the Supervisor will arrange to have photographs taken of the person's injuries, which will be maintained as evidence.

USE OF FORCE REPORTING

The Department shall establish a use of force reporting system that allows for the effective review and analysis of all department use of force incidents. The reporting system shall be designed to help identify trends, improve training and officer safety, and provide timely and accurate information to the department. Officers shall complete a departmental *Use of Force Report Form* whenever they use force against a suspect above un-resisted handcuffing. This includes the discharge of a firearm, pointing a firearm in the direction of a human being, use of chemical spray, chokeholds or hard hands, taking of a subject to the ground, dispatch of an animal or the deployment of a canine. This requirement shall not apply when an officer simply draws or transports any weapon while on scene.

Officer's Responsibilities

When an officer finds it necessary to use force to affect an arrest, or for any other law enforcement purpose, whether on duty or off-duty, that officer shall:

- Notify a Supervisor of the particulars as soon as circumstances allow in those cases which require a *Use of Force Report Form*. If an individual is injured or claims injuries, an officer shall notify his/her supervisor while on scene.
- Complete a Use of Force Report Form, which shall include all other officers involved in or witnessing the incident.
 - All Use of Force Reports must be completed and forwarded to the Shift Commander, or designee, as soon as practical after the incident. Sergeants will be held responsible to see that this form is completed prior to the Officer leaving their tour of duty. However, under special circumstances, such as those incidents resulting in death or serious injury of a person, the Use of Force Report will be completed when an incident report is written by an involved officer(s).

Supervisor's Responsibilities

- Absent exceptional circumstances, the direct supervisor of any officer using force which results in injury or alleged injury or an allegation of excessive use of force, shall respond to the scene of the use of force.
- When a reportable use of force incident occurs, the direct supervisor of any officer using force has the primary responsibility to make certain that all necessary *Use of Force Report Forms* are properly completed, reviewed for accuracy, and submitted as required by officers under their command. The Supervisor will sign the report and forward it to the Shift Commander.

- When an on-duty or off-duty employee has been involved in a use of force incident, which has resulted in death or serious injury to any person, the Shift Commander will immediately report the incident to the Chief of Police, via the chain of command. This also includes those cases where any firearm is accidentally or purposefully discharged which results in injury or death to any person.

Office of the Chief

The Assistant Chief of Patrol will review the *Use of Force Report Form* to determine:

- Whether the action was consistent with policy and procedure.
- Whether the action warrants further administrative review/investigation.
- Recommendations on equipment upgrades, training, and/or policy issues, if applicable.
- The Assistant Chief may confer with Department instructors/trainers who specialize in the field of force used, as needed. The Chief of Police will be informed about any incident that may not be consistent with policy and procedure or indicates the action warrants further administrative review/investigation.
- The Assistant Chief of Patrol, the Officer in Charge of Internal Affairs, and the Officer in Charge of Training will conduct a quarterly analysis of all "Use of Force" incidents and provide a comprehensive report to the Chief of Police.
- Use of Force Reports will be maintained in the Office of Internal Affairs.

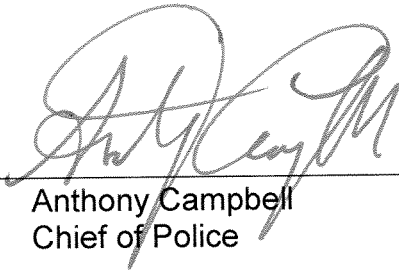
MAINTENANCE AND ACCOUNTABILITY FOR WEAPONS

- The Department Armorer will maintain a list of all approved weapons and ammunition that will be made available to all employees. The armorer will also maintain inventory reports for all weapons authorized by the agency.
- All weapons will be inspected by a qualified armorer prior to issuance to an officer. Only weapons authorized by the agency may be used by agency personnel in the performance of law enforcement duties.
- At each training session for lethal or less-lethal weapons the armorer or instructor will conduct an inspection of all weapons assigned to each officer present and confirm that:
 - The weapons are properly assigned to the officer carrying the weapon.
 - That the weapons (lethal and less-lethal) are in working order.
 - That inventory records accurately reflect weapons assigned to individual officers.
- The procedures listed above will also apply to any weapons authorized by the agency for off-duty carry under LEOSA (refer to the General Order pertaining to LEOSA).
- Whenever a weapon is found to be unsafe or not functioning properly the weapon will be turned in by the officer and the officer will request a replacement.

The Department Armorer will maintain an inventory of replacement weapons and assure such weapons are available for issuance when needed.

This supersedes General Order 6.01 – issued on February 11, 2016.

*History: General Order 300 - issued on February 4, 2013
General Order 07-01 – issued on July 5, 2007*



Anthony Campbell
Chief of Police

02/15/2018
Date